

LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS JUSTICE SYSTEM INTEGRITY DIVISION

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October 28, 2009

Captain David Smith Homicide Bureau Los Angeles County Sheriff's Department 5747 Rickenbacker Road Commerce, California 90040

Re: J.S.I.D. File #: 08-0568

L.A.S.D. File #:008-09281-0399-055

Dear Captain Smith:

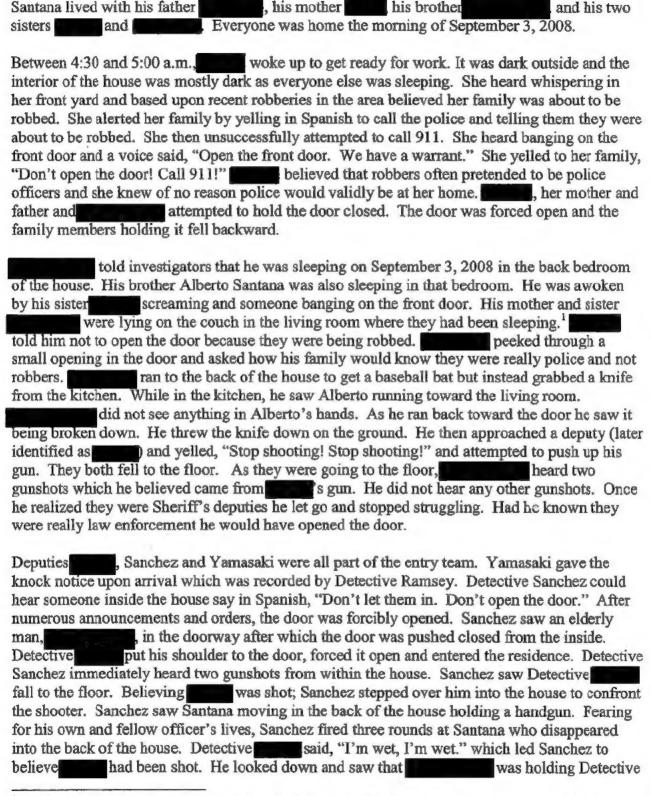
The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the September 3, 2008 non-fatal shooting of Alberto Santana by Los Angeles County Sheriff's Deputies John Sanchez and Jamie Yamasaki. Based apon the information submitted to this office, we have determined the deputies to have acted in self-defense and the defense of others.

The following analysis is based upon a series of reports prepared by the Los Angeles County Sheriff's Department (LASD) submitted to this office on January 15, 2009. The District Attorney Command Center was notified of this shooting at 7:35 a.m. on September 3, 2008. Deputy District Attorney Margo Baxter and District Attorney Senior Investigators and are responded to the scene where they were given a briefing, provided with a "walk through" of the scene and participated in witness interviews. No compelled statements were presented or considered for purposes of this analysis.

FACTUAL ANALYSIS

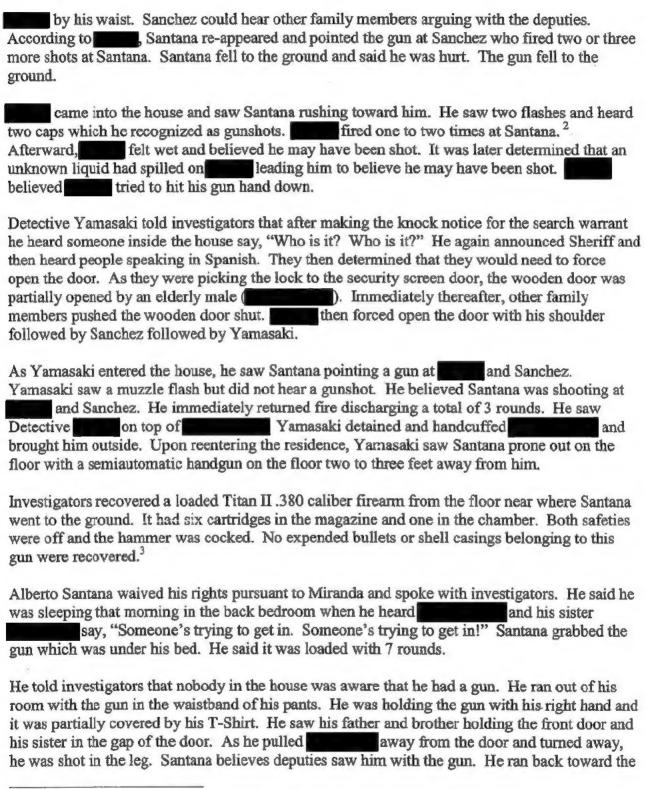
On September 3, 2008, Los Angeles County Sheriff's Department (LASD) Lennox Station Detective Bureau personnel assisted LASD's Operation Safe Streets Bureau in serving a Ramey arrest and search warrant at 99th Street in the city of Inglewood. Their suspect was Alberto Santana (Santana) who was wanted on an attempted murder case.

Captain Smith October 28, 2009 Page 2 of 5



¹ The front door to the house opens directly into the living room. The house has two bedrooms. One faces the street and the other faces the backyard. The living room and the front bedroom share a wall.

Captain Smith October 28, 2009 Page 3 of 5



² gun was examined after the shooting. He had only fired one round. His gun jammed.

³ Eight shell casings were recovered from the location. All were determined to be 9mm Luger shell casings which are consistent with being fired from the officer's gue 7.

Captain Smith October 28, 2009 Page 4 of 5

bedroom and saw a bullet strike a computer next to him as he ran. Santana also heard his brother say, "I didn't know you guys were cops." Santana did not hear or see any other gunshots. Santana fell to the ground and told the deputies he was injured.

LEGAL ANALYSIS

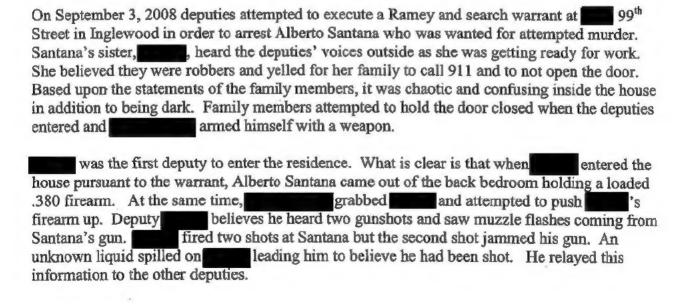
A peace officer who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested. <u>Penal Code Section 835a</u>

California law permits the use of deadly force in self-defense or in the defense of another if it reasonably appears that the person claiming the right of self-defense or the defense of another actually and reasonably believed that he was in imminent danger of great bodily injury or death. People v. Williams (1977) 75 Cal.App.3d 731.

A person acts in legal self defense and/or the defense of others if they reasonably believed that themselves or a third party was in imminent danger of suffering bodily injury; they reasonably believed that immediate use of force was necessary to defend against that danger and they used no more force than was legally necessary to defend against that danger. <u>CALCRIM</u> No. 3470.

Actual danger is not necessary to justify the use of deadly force in self-defense. If one is confronted by the appearance of danger which one believes, and a reasonable person in the same position would believe, would result in death or great bodily injury, one may act upon those circumstances. The right of self defense is the same whether the danger is real or apparent. People v. Toledo (1948) 85 Cal.App.2d 577.

CONCLUSION



Captain Smith October 28, 2009 Page 5 of 5

Sanchez entered the house immediately after As Sanchez entered, he heard two gunshots and saw go to the floor and say he was wet. Sanchez saw Santana toward the back of the house holding a handgun. He fired three rounds at Santana. As Yamasaki entered the house, he saw a muzzle flash and saw Sanchez and both pointing their guns at Santana. In fear for his life and the lives of Sanchez and Yamasaki fired three rounds at Santana. From the interviews of the deputies and the family members it appears the shots were almost instantaneous. It appears there may be some confusion as to who shot first and some mistaken perceptions. Although Santana by his own admission was holding the loaded gun, it was determined that it had not been fired that morning. However, the right of self defense is available to the deputies if the danger was real or apparent.

We find that Alberto Santana placed Deputies John Sanchez and Jamie Yamasaki in actual and reasonable fear of great bodily injury or death. We conclude that they acted in lawful self-defense and the defense of others. We are closing our file and will take no further action regarding this matter.

Very truly yours,

STEVE COOLEY District Attorney

By Margo Baxter

Deputy District Attorney

c: Deputy

Deputy John J. Sanchez, #

Deputy Jamie Yamasaki, #